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May 4, 2021

Honorable Paul A. Engelmayer
United States District Judge
Thurgood Marshall
United States Courthouse
40 Foley Square
New York, NY 10007

Re. Beniquez v. Johnson, 21-cv-01467 (PAE)

Dear Judge Engelmayer:

On behalf of respondent Jay Johnson, I write to seek clarification of Your Honor's May 3, 2021 order, entered by way of endorsement at the bottom of my April 30, 2021 letter to the Court. In that letter, I consented to petitioner's request for a stay of his habeas corpus petition pending his litigation of a NYCPL Article 440 motion in New York County Supreme Court. I also asked for an extension of time to file respondent's answer—proposing alternative due dates depending upon whether Your Honor granted or denied petitioner's stay request: If the stay were granted, I asked for an extension of time until 60 days after the conclusion of the underlying state litigation; if the stay were denied, I asked for an extension until July 1, 2021.

Your Honor's May 3, 2021 endorsement at the bottom of my April 30, 2021 letter states: "Granted. So ordered." My understanding of that endorsement is that petitioner's stay motion has been granted and that respondent's time to answer the petition has been extended to 60 days after the completion of the state court proceedings. The ECF docket sheet entry, however, describes Your Honor's May 3, 2021 order very differently: The docket sheet entry makes no reference at all to petitioner's motion for a stay, and it extends respondent's time to file an answer to July 1, 2021 (the date we requested if the stay motion was denied).¹ Accordingly, I respectfully request clarification of Your Honor's May 3, 2021 order, with regard to the status of petitioner's stay motion, and the due date of respondent's answer.

¹ The docket entry is as follows: "ORDER: granting 9 Letter Motion for Extension of Time to Answer re 9 LETTER MOTION for Extension of Time to File Answer addressed to Judge Paul A. Engelmayer from Eleanor Ostrow dated 4/30/21. Granted. SO ORDERED. Jay Johnson answer due 7/1/2021. (Signed by Judge Paul A. Engelmayer on 5/03/2021) (ama) (Entered: 05/03/2021)"

Hon. Paul A. Engelmayer

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May 4, 2021

A copy of this letter is being mailed to petitioner, who is incarcerated and representing himself in this matter.

Respectfully yours,



Eleanor J. Ostrow
Assistant District Attorney
New York County
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cc: Jose Beniquez
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Stormville, NY 12582

The Court grants petitioner's motion to stay, and the respondent's time to respond to the petition is extended to 60 days after the completion of the state court proceedings. SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge
5/6/2021